

IN THE DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL MILLER

Plaintiff,

v.

COUNTY OF LANCASTER, *et al.*,

Defendants.

Civ. No.: 5:24-cv-05338-JFL

Judge Joseph F. Leeson, Jr.

**PLAINTIFF’S MOTION TO CLARIFY AND CORRECT
MISAPPLICATION OF RULE 12(b)(1) AND RULE 12(b)(6) STANDARDS**

Plaintiff Michael Miller respectfully moves this Court to clarify and correct the legal standards applied in its March 7, 2025 Memorandum Opinion (ECF No. 35) and Order (ECF No. 36) granting in part Defendants’ motion to dismiss.

Although the Court recites the correct procedural standards under Rules 12(b)(1) and 12(b)(6), Plaintiff submits that the Court misapplied those standards in substance by resolving factual disputes, drawing adverse inferences, and making legal determinations at the motion-to-dismiss stage. Plaintiff further submits that the ruling does not identify the standards applied to each claim or whether any materials outside the pleadings were relied upon.

This motion is filed to ensure the record is procedurally complete and to preserve Plaintiff’s rights on appeal. The basis for this motion is more fully set

forth in the accompanying Memorandum of Law, filed contemporaneously herewith.

Relief Requested

Plaintiff respectfully requests that the Court:

1. Clarify whether it applied a facial or factual Rule 12(b)(1) standard;
2. Confirm whether it relied on any materials outside the pleadings, and if so, vacate those findings under Rule 12(d);
3. Reevaluate any dismissal made on the basis of judicial fact-finding or premature legal resolution;
4. Confirm whether Counts I, II, III, IV, V, VI, and XII were evaluated under the proper Rule 12(b)(6) standard;
5. Vacate or modify the dismissal order as to any count improperly resolved without applying the required standard; and
6. Provide a statement of reasons identifying the standard applied to each claim.

Respectfully submitted,

/s/ Michael Miller

Michael Miller

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Dated: March 24, 2025

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served by e-filing a true and correct copy of the foregoing document to the following:

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Respectfully Submitted,

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Dated: March 24, 2025